

A RESOLUTION BY:

02-*R*-0196

CITY UTILITIES COMMITTEE

A RESOLUTION TO AUTHORIZE THE MAYOR TO EXECUTE A CONSENT ORDER ISSUED BY THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA, ENVIRONMENTAL PROTECTION DIVISION (EPD) COVERING UNPERMITTED DISCHARGES FROM THE CITY'S SANITARY SEWERAGE SYSTEM INTO WATERS OF THE STATE AT 1725 NORTHWEST DRIVE (BOLTON ROAD PUMP STATION) AND 944 CRANE ROAD; TO AUTHORIZE THE CHIEF FINANCIAL OFFICER TO ISSUE A CHECK IN THE AMOUNT OF \$45,000.00 PAYABLE TO THE GEORGIA DEPARTMENT OF NATURAL RESOURCES TO DEFRAY THE COST OF THE FINES LEVIED AGAINST THE CITY BECAUSE OF THE UNPERMITTED DISCHARGES; TO IDENTIFY THE SOURCE OF FUNDING AND FOR OTHER PURPOSES.

WHEREAS, the City reported to EPD an unpermitted discharge of 398,284 gallons of raw sewage at 1725 Northwest Drive (Bolton Road Pump Station) from the City's sanitary sewerage system into waters of the Chattahoochee River on September 21, 2000; and

WHEREAS, the overflow was reportedly caused by a power failure; and

WHEREAS, in accordance with the City's Wastewater Systems Improvement Program, the City has completed improvements to its system, including the Bolton Road Pump Station, by upgrading equipment and installing a generator which is contracted with Georgia Power for maintenance; and

WHEREAS, the City reported to EPD an unpermitted discharge of 12,600 gallons of raw sewage at 944 Crane Road from the City's sanitary sewerage system into waters of Indian Creek on January 31, 2001; and

WHEREAS, the by-pass set up resulted in the continuation of an unpermitted discharge in a capacity limited basin; and

WHEREAS, the City, by Ordinance 01-O-0240 adopted on May 14, 2001, imposed a sewer moratorium for the Highland Trunk and Eulalia area in which Indian Creek is located until capacity improvements are completed; and

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WHEREAS, these discharges were in excess of 10,000 gallons and each constitutes a major spill under Chapter 391-3-6-.05 of the Georgia Rules and Regulations for Water Quality Control and is subject to civil penalties under the Official Code of Georgia Annotated § 12-5-52(a); and

WHEREAS, the Department of Public Works of the City does not dispute the fact that these discharges did occur; and

WHEREAS, the payment to EPD of this assessment by the City does not constitute a finding or adjudication, is not to be evidence of a violation of law by the City, nor does the City by its consent agree to any violations of state or federal laws or admit any liability to any third party or parties; and

NOW THEREFORE, BE AND IT IS RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, as follows:

Section One: That the Mayor, acting on behalf of the City, is authorized to execute a Consent Order issued by the EPD covering these incidents of discharge of raw sewage from the City sewerage system to waters of the State.

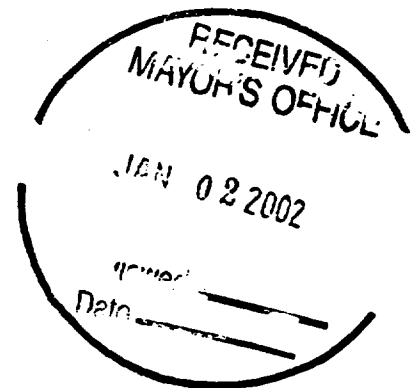
Section Two: That the Chief Financial Officer of the City is authorized to issue a check in the amount of Forty-Five Thousand and 00/100 Dollars (\$45,000.00) in favor of the Georgia Department of Natural Resources, Environmental Protection Division for the purposes described herein, chargeable to Account Number 2J21 529017 T31001.

Georgia Department of Natural Resources
205 Jesse Hill Jr. Drive, S.E., East Floyd Tower, Atlanta, Georgia 30334

Lonice C. Barrett, Commissioner
Harold F. Reheis, Director
David Word, Assistant Director
Environmental Protection Division
404/656-4713

December 21, 2001

Honorable Bill Campbell, Mayor
City of Atlanta
55 Trinity Avenue S.W.
Suite 2400
Atlanta, Georgia 30335-0300



RE: Consent Order (Order)
No. EPD-WQ-3921

Dear Mayor Campbell:

The public notice comment period for your proposed Order has ended. No revisions were made to the Order that was transmitted to you. Enclosed is a copy of the executed Order. In addition, the City of Atlanta is responsible for returning the settlement amount to the Environmental Protection Division in the form of a check for \$45,000, made payable to the Georgia Department of Natural Resources, within 30 days of the execution date of the Order.

Your cooperation in this matter is appreciated.

Sincerely,


Harold F. Reheis
Director

HFR/ppj

Enclosure

ENVIRONMENTAL PROTECTION DIVISION
OF THE
DEPARTMENT OF NATURAL RESOURCES
STATE OF GEORGIA

IN RE: City of Atlanta
 Unpermitted Discharges

ORDER NO. EPD-WQ-3921

CONSENT ORDER

WHEREAS, the City of Atlanta (City) was issued National Pollution Discharge Elimination System Permit Nos. GA0021482, GA0024040, and GA0021458 (Permits) by the Director of the Georgia Environmental Protection Division (Director, EPD) for its R.M. Clayton, South River, and Utoy Creek wastewater treatment facilities (Facilities); and

WHEREAS, the Permits authorize the Facilities to discharge treated wastewater according to effluent limitations, monitoring requirements, and other conditions set forth in the Permits; and

WHEREAS, on September 22, 2000 the City reported to EPD an unpermitted discharge of 398,284 gallons of raw sewage at 1725 Northwest Drive (Bolton Road Pump Station) from the City's sanitary sewerage system into waters of the Chattahoochee River; and

WHEREAS, the overflow was reportedly caused by a power failure; and

WHEREAS, in accordance with the City's Wastewater Systems Improvement Program Progress Report dated May 10, 2001, the City completed improvements to its system on March 30, 2001 by upgrading equipment and installing a generator which is contracted with Georgia Power for maintenance; and

WHEREAS, based on the City's spill report, dated February 1, 2001, the City reported to EPD an unpermitted discharge of 12,600 gallons of raw sewage at 944 Crane Road from the City's sanitary sewerage system into waters of Indian Creek; and

WHEREAS, an EPD representative investigated the site at 944 Crane Road on the afternoon of February 2, 2001; and

WHEREAS, it was documented that ^{11.5}~~30~~ hours elapsed before a by-pass was installed around the problem area; and

WHEREAS, this by-pass was inadequately set up and supervised and consequently resulted in the continuation of a raw sewage discharge; and

WHEREAS, this went unnoticed by the City for another ^{5.5}~~12~~ hours; and

WHEREAS, the by-pass pump installed failed and had to be replaced, causing more raw sewage to be discharged; and

WHEREAS, the City has reported they have replaced the collapsed line; and

WHEREAS, this overflow occurred in a capacity limited basin; and

WHEREAS, according to the City's Utility Ordinance 01-0-0240, dated May 14, 2001, the City has imposed a sewer moratorium for the Highland Trunk and Eualalia area until capacity improvements, that are mandated by the First Amended Consent Decree (FACD), are completed; and

WHEREAS, Chapter 391-3-6-.05 of the Georgia Rules and Regulations for Water Quality Control (Rules), in part defines a major spill as any discharge of raw sewage that exceeds 10,000 gallons or results in water quality violations in the waters of the State; and/or the discharge of pollutants by a facility that exceeds the weekly average permitted effluent limit for BOD₅ or TSS by 50 percent or greater for any one day; and

WHEREAS, Chapter 391-3-6-.02(2)(c) of the Rules defines "sewerage system" as any system that treats or disposes of pollutants including treatment works, pipelines or conduits, pumping stations or force mains, and all other appurtenant constructions, devices and appliances used to conduct pollutants to the point of ultimate disposal; and

WHEREAS, the Bolton Road Pump Station and the sanitary sewer at 944 Crane Road are part of the City's sewerage system; and

WHEREAS, Section 12-5-29(a) of the Official Code of Georgia Annotated (Code) makes it unlawful to use any waters of the State to dispose of sewage or other wastes, except to comply with the Code and all rules, regulations, orders, and permits established under the Code; and

WHEREAS, the spills listed above constitute violations of the Code; and

WHEREAS, Section 12-5-52(a) of the Code specifies that any person violating any provision of the Code or any permit condition or limitation established pursuant to the Code shall be liable to the State of Georgia for a civil penalty not to exceed \$50,000 per day for each day during which such violation continues; and

WHEREAS, failure of the Director to take appropriate enforcement action against the City for noncompliance would result in Federal enforcement action against the City; and

WHEREAS, the City, in an effort to cooperate with EPD and to comply with the provisions of the Code, agrees to comply with the terms and conditions of this Order.

NOW, THEREFORE, the Director ORDERS and the City AGREES as follows:

1. Within 30 days of the execution date of this Order, pay to the Georgia Department of Natural Resources \$45,000 for the 2 major spills, which occurred from the City's sanitary sewerage system on September 21, 2000 and January 31, 2001.
2. Continue to submit to EPD, the results of the stream monitoring programs conducted by the City in accordance with the requirements of the major spill provisions in the City's NPDES permits. The programs shall include upstream and downstream sampling of the waters affected by the two major spills which occurred on September 21, 2000 and January 31, 2001 for the following parameters:
 1. Dissolved Oxygen
 2. Fecal Coliform Bacteria
 3. pH
 4. Temperature

Samples shall be collected once per day for one week (reported as a geometric mean for fecal coliform bacteria), once per week for the remainder of the month (with the entire month reported as a geometric mean for fecal coliform bacteria), once per week in the 3rd month and once per week in the 12th month (both reported as geometric means for each month for fecal coliform bacteria). The

results are to be submitted to EPD by the 15th of the month following the sample period.

3. Submit to EPD within 30 days for review, Standard Operating Procedures (SOP) for spill containment and by-pass system installation to be used during sanitary system failures and repair.

This Order does not waive EPD's power to take further enforcement action, or imply that EPD will not take such action, if the City fails to (1) meet the NPDES Permit limits and does not fully satisfy the conditions of the Order, or (2) fully comply with other relevant requirements.

This Order is not a finding of, adjudication, or evidence of, a violation of any State law by the City nor does the City by its consent agree to any violations of State laws nor admit any liability to any third party or parties.

This Order does not relieve the City of any obligations or requirements of the NPDES Permits.

This Order does not waive EPD's right to initiate enforcement actions against the City to address future unpermitted discharges from the City of Atlanta sewerage system.

This Order is final and effective immediately, and shall not be appealable, and the City waives any hearing on its terms and conditions.

It is so ORDERED, CONSENTED, and AGREED to this 21st day of
December, 2001.

FOR THE DIRECTOR:

Harold F. Reheis
HAROLD F. REHEIS
Director

FOR THE CITY:

City of Atlanta

BY: Daniel W. Peters

TITLE: CHIEF ENVIRONMENTAL OFFICER

DATE: 8/2/01

ENVIRONMENTAL PROTECTION DIVISION
OF THE
DEPARTMENT OF NATURAL RESOURCES
STATE OF GEORGIA

IN RE: City of Atlanta
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WHEREAS, Chapter 391-3-6-.02(2)(c) of the Rules defines "sewerage system" as any system that treats or disposes of pollutants including treatment works, pipelines or conduits, pumping stations or force mains, and all other appurtenant constructions, devices and appliances used to conduct pollutants to the point of ultimate disposal; and

WHEREAS, the Bolton Road Pump Station and the sanitary sewer at 944 Crane Road are part of the City's sewerage system; and

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WHEREAS, failure of the Director to take appropriate enforcement action against the City for noncompliance would result in Federal enforcement action against the City; and

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This Order does not relieve the City of any obligations or requirements of the NPDES Permits.

This Order does not waive EPD's right to initiate enforcement actions against the City to address future unpermitted discharges from the City of Atlanta sewerage system.

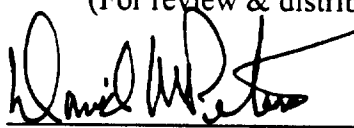
This Order is final and effective immediately, and shall not be appealable, and the City waives any hearing on its terms and conditions.

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

GREG PRIDGEION

(For review & distribution to Execution Management)

Commissioner's Signature: 

Director's Signature _____

From: Origination Dept.

PUBLIC WORKS

Contact (name):

Ben Taube x 5232 or
David W. Peters x 6073

Committee(s) Purview:

City Utilities Committee

Committee Deadline:

Committee(s) Meeting Dates: January 29, 2001

City Council Meeting Date: February 4, 2002

CAPTION:

A Resolution to authorize the Mayor to execute a consent order issued by the Department of Natural Resources of the State of Georgia, Environmental Protection Division (EPD) covering unpermitted discharges from the City's Sanitary Sewerage System into waters of the state at 1725 Northwest Drive (Bolton Road Pump Station) and 944 Crane Road; to authorize the Chief Financial Officer to issue a check in the amount of \$45,000.00 payable to the Georgia Department of Natural Resources to defray the cost of the fines levied against the City because of the unpermitted discharges; to identify the source of funding; and for other purposes.

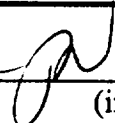
BACKGROUND/PURPOSE/DISCUSSION:

FINANCIAL IMPACT (If Any):

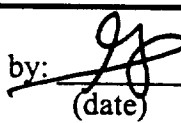
Mayor's Staff Only

Received by Mayor's Office:

1/18/02
(date)


(initials)

Reviewed by:


(date)

Submitted to Council: _____

Action by Committee: Approved _____ Adverse _____ Held _____ Amended _____

Substitute _____ Referred _____ Other _____

It is so ORDERED, CONSENTED, and AGREED to this 21st day of
December, 2001.

FOR THE DIRECTOR:

Harold F. Reheis
HAROLD F. REHEIS
Director

FOR THE CITY:

City of Atlanta
BY: Daniel W. Peters
TITLE: CHIEF ENVIRONMENTAL OFFICER
DATE: 8/2/01